IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 15202 of 2004

Between:

Palla Appa Rao S/o. Late Pentayya
New Gajuwaka, Visakhapatnam District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Gajuwaka, Visakahapatnam District.
2 The Gajuwaka Municipality, rep. by its Commissioner,
Gajuwaka, Visakhapatnam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ order or direction more particularly one in the nature of writ of mandamus declaring the action of respondents in threatening me and demanding me to compromise the Civil Suit in O.S.No.135 of 2004 pending on the file of Senior Civil Judge, Gajuwaka, Visakhapatnam District with the defendants therein and also threatening to alter the revenue and Municipal Records by changing petitioner's name and entering the name of Lella Koteswararao as illegal, arbitrary, unjust unwarranted and violative of Article 21 and 300 A of Constitution of India and consequently to direct the respondents to not interfere with my property rights in an extent of 71 cents of land in Sy.No.78/1 of Kurmanna Palem village within the Gajuwaka Municipal Limits Visakhapatnam District.

Counsel for the Petitioner:SMT.N.(P).ANJANA DEVI

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: MR.D.SRINIVAS, Standing Counsel

The Court at the stage of admission made the following ORDER:

The petitioner claims to be the purchaser of land admeasuring 71 cents in Survey No.78/1 situated at Kurmanna Palem Village, Gajuwaka, Visakhapatnam under a registered sale deed dated 16-09-1978. To safeguard his possession, he constructed thatched huts and kept a watchman. It is stated that the said property was assessed by Gajuwaka Municipality and he has already paid property tax for the year 2003-2004. When one Mr. L.Koteshwar Rao and five others interfering with his possession, he approached the police with a complaint on
10-08-2004 but the police did not interfere since it is a civil dispute. In view of the same, he filed O.S.No.135 of 2004 before the Senior Civil Judge, Gajuwaka, for permanent injunction against the six persons and the same is pending. Since L.Koteshwar Rao, who is the fifth defendant therein, is a rich man and got influence in the locality, the respondents bringing pressure on the petitioner through the revenue officials and threatening to change the entries in the revenue and municipal records by incorporating the name of the said L.Koteswara Rao. In view of the same, he filed the present writ petition and during the pendency of it, he seeks injunction against the respondents not to interfere with his property and civil dispute, which is pending.

It has been repeatedly held by this Court and also by various High Courts in ***MOHAN PANDEY AND ANOTHER v. SMT. USHA RANI RAJ GARIA AND OTHERS*** is as follows:

> *"It has repeatedly been held by this Court as also by various High Courts that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between private persons and that the remedy under Article 226 of the*

Constitution shall not be available except where violation of some statutory duty on the part of a statutory authority is alleged."

"The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes, for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction is special and extraordinary and should not be exercised casually or lightly."

In view of the same, the present writ petition filed by the petitioner by impleading the revenue officials is nothing but to obtain an injunction and to prove his possession over the property in the pending suit by the petitioner before the Civil Court. Such a course of action cannot be permitted in exercise of the jurisdiction of this Court under Article 226 of the Constitution of India.

However, it is needless to observe that to dispel the apprehension of the petitioner, the respondents have to follow due procedure in the event of change of entries in the revenue records and for such, issue notices to the persons, who are likely to be affected.

The writ petition is accordingly, dismissed. No costs.

26th AUGUST, 2004.

Note: furnish c.c. by 30-08-2004.

B/o

Kvni

To

1 The Mandal Revenue Officer, Gajuwaka, Visakahapatnam District.
2 The Commissioner, Gajuwaka Municipality,
Gajuwaka, Visakhapatnam District.

3 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings, Hyderabad.

4 Two CD copies.